

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
OLYMPIAN STONE COMPANY,

Appellant,

v.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 79-155

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Sections 9.03(b) and 8.02(3) of respondent's Regulation I; having come on regularly for formal hearing before the Pollution Control Hearings Board on the 14th day of December, 1979, at Seattle, Washington; and appellant Olympian Stone Company appearing through its Vice President Norman L. Donatt and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith McGoffin; with Nancy E. Curington, hearing examiner presiding, and the Board having considered the exhibits, records and files herein, and having reviewed the Proposed Order of the presiding officer mailed to the parties on the 19th day of December, 1979, and more than twenty days having elapsed from said service; and

The Board having received no exceptions to said Proposed Order and the Board being fully advised in the premises; NOW THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed Order containing Findings of Fact, Conclusions of Law and Order dated the 19th day of December, 1979, and incorporated by reference

1 herein and attached hereto as Exhibit A, are adopted and hereby  
2 entered as the Board's Final Findings of Fact, Conclusions of  
3 Law and Order herein.

4 DATED this 31<sup>st</sup> day of January, 1980.

5 POLLUTION CONTROL HEARINGS BOARD

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8 NAT W. WASHINGTON, Chairman

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10 CHRIS SMITH, Member

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12 DAVID AKANA, Member

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27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
OLYMPIAN STONE COMPANY,) )  
Appellant,) )  
v. )  
PUGET SOUND AIR )  
POLLUTION CONTROL )  
AGENCY, )  
Respondent.) )

PCHB No. 79-155

PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Sections 9.03(b) and 8.02(3) of respondent's Regulation I, came before the Pollution Control Hearings Board at a formal hearing in Seattle, Washington on December 14, 1979. Nancy E. Curington, Administrator, presided.

Appellant was represented by Norman L. Donatt, Vice President. Respondent was represented by its attorney, Keith McGoffin.

Having considered the testimony, exhibits and contentions of the

EXHIBIT A

1 parties, the Board makes these

2 FINDINGS OF FACT

3 I

4 Pursuant to RCW 43.21B.260, respondent has filed with the Board  
5 a certified copy of its Regulation I and amendments thereto, which  
6 are noticed.

7 II

8 On August 8, 1979 at approximately 9:38 a.m. while visiting a  
9 neighboring facility, respondent's inspector observed light blue  
10 smoke arising from appellant's yard in Redmond, Washington. After  
11 reading the smoke at 35 - 60% opacity for 15 minutes, the inspector  
12 visited the site. There he learned that a fire, resulting from  
13 spontaneous combustion, had been burning since 5:30 that morning, in  
14 a trash storage area. He further learned that the Redmond Fire  
15 Department had been called and had declined to extinguish the fire  
16 due to cost considerations and the fact that the fire was in a  
17 contained area, with three concrete walls. The trash was composed  
18 of paint cans, paper, scrap lumber and general garbage. At that  
19 time, no efforts were being made to extinguish the fire.

20 III

21 Respondent's inspector left appellant's premises and returned at  
22 approximately 2:40 p.m. that day. He then issued Notice of  
23 Violation No. 16440 for violation of Section 9.03(b)(2) of  
24 respondent's Regulation I and Notice of Violation No. 16441 for  
25 violation of Section 8.02(3) of respondent's Regulation I. On

26 PROPOSED FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER 2

1 August 30, 1979, respondent sent the appellant, by certified mail,  
2 Notice and Order of Civil Penalty No. 4368, imposing a \$250 fine;  
3 such is the subject of the appeal.

4 IV

5 Appellant has been issued by the respondent two other notices of  
6 violation and civil penalties for unlawful outdoor fires containing  
7 prohibited materials.

8 Appellant has only one sprinkler in the area of the trash  
9 storage bin; the water source is 400 feet away. On the day of the  
10 fire, appellant waited for the fire to sufficiently cool so that it  
11 could use a front end loader to dump sand on the fire to extinguish  
12 it.

13 V

14 Section 9.03(b) (2) of respondent's Regulation I makes it  
15 unlawful for any person to cause or allow the emission of an air  
16 contaminant for a period totalling more than three minutes in any  
17 one hour which is of an opacity of 20% or more.

18 Section 8.02(3) of respondent's Regulation I makes it unlawful  
19 for any person to cause or allow any outdoor fire containing  
20 prohibited materials.

21 VI

22 Any Conclusion of Law which should be deemed a Finding of Fact  
23 is hereby adopted as such.

24 From these Findings, the Board enters these  
25

26 PROPOSED FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER 3

CONCLUSIONS OF LAW

I

On August 8, 1979 appellant violated Section 9.03(b) (2) of respondent's Regulation I by allowing emission of smoke for more than the permitted limits established by the regulations.

II

On August 8, 1979 appellant violated Section 8.02(3) of respondent's Regulation I by allowing an outdoor fire containing prohibited materials.

III

Although appellant violated the above sections of respondent's Regulation I, appellant did attempt to extinguish the fire. In view of the Redmond Fire Department's refusal to extinguish the blaze and the limited accessibility of water at the site, the appellant's actions while occurring several hours after initial awareness of the fire, do indicate an attempt to remedy the situation. Consequently, the civil penalty should be affirmed but a portion thereof should be suspended.

IV

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions the Board enters this

ORDER

The \$250 civil penalty is affirmed, provided however, that \$100 of the penalty is suspended on condition that appellant not violate

PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

1 respondent's regulations for a period of one year from the date this  
2 Order becomes final.

3 DATED this 19<sup>th</sup> day of December, 1979.

4 POLLUTION CONTROL HEARINGS BOARD

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7 NANCY E. CURINGTON  
8 Administrator  
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27 PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER 5